



July 28, 2005

Highlights of the Conference Report to Accompany H.R. 6 – Energy Policy Act of 2005

On July 27, the Conference Report to Accompany H.R. 6, H.R. Rept. 109-190 was filed.

NOTEWORTHY

- On July 28, the House passed the Conference Report to accompany H.R. 6, the Energy Policy Act of 2005, by a vote of 275-156.
- The Energy Policy Act intends to provide a comprehensive national energy policy that balances domestic energy production with conservation and efficiency efforts to enhance the security of the United States and decrease its dependence on foreign sources of oil.
- The bill contains numerous production incentives for oil and gas exploration, and establishes programs to maintain the nation's coal production capacity.
- The bill fully funds President Bush's Clean Coal Power Initiative and extends Price-Anderson Act liability protections for Nuclear Regulatory Commission licensees, Department of Energy contractors, and non-profit educational institutions for 20 years, and mandates the sell of 7.5 billion gallons of ethanol per year by 2012.
- The bill includes an electricity title, which terminates the Federal Energy Regulatory Commission's (FERC) standard market design rulemaking, amends the Public Utility Regulatory Policies Act of 1978; repeals the Public Utility Holding Company Act of 1935; and includes utility merger and acquisition oversight authority for FERC.

Highlights

H.R. 6 contains 1724 pages and is divided into 18 titles. In addition to the points mentioned on page 1 of this Notice, highlights of key provisions are as follows:

- Includes an Electricity Title that would reduce regulatory uncertainty, promote transmission infrastructure development and security, and increase consumer protections. It protects transmission access for native load customers and authorizes Federal Energy Regulatory Commission (FERC) to exercise limited jurisdiction over unregulated transmitting utilities (like municipals and cooperatives) to ensure open access to the transmission grid.
- Authorizes a 20-year extension of the Price-Anderson Act; increases the maximum annual assessment under the standard deferred premium on Nuclear Regulatory Commission (NRC) licensees from \$10 million to \$15 million; increases the overall cap from \$63 million to \$95.8 million; and adjusts for inflation in the future. It sets the total amount of indemnification for Department of Energy (DOE) contractors at \$10 billion, and increases indemnification for DOE contractors engaged in nuclear activities outside the U.S. from \$100 million to \$500 million.
- Authorizes the President's Clean Coal Power Initiative, which provides \$200 million annually to be applied to clean coal research in coal-based gasification technologies.
- Assists Indian Tribes in the development of Indian energy resources by increasing the Tribes' internal capacity to develop their own resources by providing grants and technical assistance and streamlining the Tribal leasing process so that outside parties have more incentive to partner with Tribes in developing energy resources.
- Authorizes basic research, development, and demonstration activities related to hydrogen energy, fuel cells, and related infrastructure.
- The bill includes a Renewable Fuel Standard and a climate provision, but does not include a Renewable Portfolio Standard and does not impose additional fuel efficiency standards on passenger vehicles, light trucks, sport utility vehicles, or minivans.

Bill Provisions

Title I – Energy Efficiency

Subtitle A – Federal Programs

The conference report establishes requirements to reduce energy use in Federal buildings and energy and water use in Congressional buildings. Requires Federal buildings to improve energy efficiency by 20 percent over 2004 levels by 2015. Requires Federal buildings to install advanced metering devices to measure energy use and to assist in devising plans to reduce energy costs and consumption, and mandates procurement of energy efficient products. Extends daylight savings time by two months and expresses the sense of Congress that Federal agencies should enhance the use of energy efficient technologies in the management of natural resources.

Subtitle B – Energy Assistance and State Programs

The conference report authorizes the expenditure of \$5.1 billion for the Low Income Home Energy Assistance Program for fiscal years 2005 through 2007. Authorizes the expenditure of \$1.23 billion for Weatherization assistance for fiscal years 2006 through 2008. Provides energy conservation and efficiency assistance to States, rebates to consumers who purchase Energy Star products (EPA’s seal of approval for energy-efficient products), and grants to energy efficiency pilot programs in low-income communities.

Subtitle C – Energy Efficient Products

The conference report establishes a program to identify and promote energy efficient products and buildings, and various education programs on energy efficiency. Establishes energy-conservation standards for numerous consumer and commercial products. Seeks to improve energy efficiency labeling requirements and establishes a national replacement tire fuel efficiency education program. Directs a study to be conducted on State and regional policies that promotes cost-effective programs to reduce energy consumption, and authorizes \$5 million for each fiscal year from 2006 to 2010 to establish energy efficiency pilot programs.

Subtitle D – Public Housing

The conference report encourages energy efficiency improvements in public housing.

Title II – Renewable Energy

Subtitle A – General Provisions

The conference report directs Secretary of Energy to publish a detailed inventory of renewable energy resources in the United States. Extends funding authorization for renewable power production incentive programs. Requires the Federal Government to purchase no less

than 3 percent renewable electric power in fiscal years 2007 through 2009, no less than 5 percent in fiscal years 2010 through 2012, and no less than 7.5 percent in fiscal year 2013 and thereafter. Establishes photovoltaic energy commercialization program for the procurement and installation of photovoltaic solar electric systems for electric production in new and existing public buildings. Directs the Secretary to establish criteria governing renewable energy systems installed under the Weatherization Assistance Program. Provides rebates for consumers for expenditures made for the installation of a renewable energy system in a dwelling unit or small business. Authorizes appropriations to install a photovoltaic system for the DOE headquarters building. Establishes in DOE a Sugar Cane Ethanol Pilot Program.

Subtitle B – Geothermal Energy

The conference report contains various provisions dealing with leasing and permitting of federal lands for geothermal energy production, royalty payments, assessment of geothermal resources, and so on.

Subtitle C – Hydroelectric

The conference report addresses hydroelectric licensing and other hydropower provisions. Directs federal resource agencies (Departments of Interior, Commerce, and Agriculture) to establish procedures for on the record “trial-type” hearing on disputed issues of material fact, once mandatory conditions on hydroelectric licenses have been set. Any party to the FERC licensing proceeding can initiate the hearing but, once initiated, all disputed issues must be considered in a single hearing, lasting no more than 90 days. Provides that any party to the FERC proceedings may propose alternative conditions and prescriptions, which must be accepted if it is determined by the relevant resource agency that the alternative would reduce costs or improve the operation of the project. The natural resource agencies must document that equal consideration was given to economic, environmental, and other public impacts before imposing mandatory conditions. Should FERC determine that the mandatory conditions are inconsistent with requirements under applicable law, FERC can refer the dispute to its own dispute resolution service for a non-binding advisory.

Subtitle D – Insular Energy

The conference report directs the Secretaries of Energy and of the Interior to assess the potential to reduce dependence on fossil fuels for electricity generation and to promote distributed energy in the U.S.-affiliated insular areas.

Title III – Oil and Gas

Subtitle A – Petroleum Reserve and Home Heating Oil

The conference report permanently authorizes the Strategic Petroleum Reserve – authorizing the Secretary of Energy to fill it to its one-billion-barrel capacity – and other energy reserve programs, such as the Northeast Home Heating Oil Reserves.

Subtitle B – Natural Gas

The conference report clarifies FERC’s exclusive jurisdiction for siting, construction, expansion, and operation of Liquefied Natural Gas (LNG) facilities located onshore and in State waters. Does not provide eminent domain powers. Allows owners of proposed LNG terminals to negotiate contracts for terminal services directly with prospective LNG suppliers (no open access requirements) to encourage site development. Makes FERC the lead agency in the National Environmental Policy Act (NEPA) process and establishes a process for coordination, hearings, and rules of procedure. Agencies with jurisdiction over natural gas infrastructure are encouraged to coordinate with FERC. Allows FERC to grant market-based rate treatment for new storage capacity if in the public interest. Bans any “manipulative or deceptive device or contrivance” in connection with jurisdictional natural gas transactions that are in violation of FERC rules. Directs FERC to facilitate price transparency in natural gas markets by establishing appropriate rules and mechanisms.

Subtitle E – Production Incentives

The conference report allows royalties for oil and gas leases to be paid in-kind at the request of the Secretary of the Interior. The Secretary may receive oil and gas royalties-in-kind if doing so provides benefits to the United States greater than or equal to royalties taken in value. Sets forth conditions for royalty relief for marginal wells, natural gas production from deep wells in the shallow waters of the Gulf of Mexico, deep water production, and production in the Alaskan frontier. Directs the Secretary of Energy to conduct an expeditious program for competitive oil and gas leasing in the National Petroleum Reserve in Alaska, and to minimize impacts on surface resources. Establishes a program to remediate, reclaim, and close orphaned, abandoned, or idled wells on Federal lands. Provides royalty incentives to promote natural gas production from natural gas hydrates on the Outer Continental Shelf and federal lands in Alaska. Provides royalty incentives to enhance the recovery of oil and natural gas through carbon dioxide injection. Requires the Secretary of the Interior to conduct an inventory and analysis of Outer Continental Shelf oil and gas resources.

Subtitle F – Access to Federal Land

The conference report provides for an internal review by both the Departments of Agriculture and of the Interior on onshore leasing practices with respect to national forest lands, and to report the results to Congress. Directs the Secretary of the Interior to ensure expeditious compliance with the requirements of the National Environmental Protection Act of 1969, to improve inspection and enforcement of oil and gas activities under the onshore oil and gas leasing program, and to implement best management practices for the onshore oil and gas leasing program. Authorizes additional appropriations for the BLM, Fish and Wildlife Service, and Forest Service for these purposes. Requires the Secretary of the Interior to establish a Federal Permit Streamlining Pilot Project, which will contain seven Western Bureau of Land Management (BLM) offices that will coordinate with the relevant consulting Federal agencies to accelerate the permitting process. Requires the Secretary of the Interior, with respect to public lands, and the Secretary of Agriculture, with respect to National Forest System lands, to

designate utility corridors in Western States and to incorporate them into land use and resource management plans.

Subtitle G – Miscellaneous

The conference report establishes deadlines for the publication of initial notices and the closing of the decision record for decisions on appeals of consistency decisions under the Coastal Zone Management Act. Directs the Department of Energy to disburse for coastal impact assistance \$250 million for each of the fiscal years 2007 through 2010 to coastal states near offshore oil and gas leases.

Subtitle H – Refinery Revitalization

The conference report provides for cooperative agreements between states and the Environmental Protection Agency to streamline the consideration of Federal and State environmental permits for a new refinery.

Title IV – Coal

Subtitle A – Clean Coal Power Initiative

The conference report authorizes \$200 million per year for fiscal years 2006 through 2014 to be spent on the development of clean coal technologies such as coal gasification (70%) and other combustion technologies (30 %), and gives priority to projects that include carbon capture and sequestration as part of the project. Allows the Secretary of Energy to grant a direct loan of up to \$80 million to build a clean coal technology plant for electricity generation.

Subtitle B – Clean Power Projects

The conference report allows the Secretary of Energy to provide loans for projects that produce energy from coal of less than 7,000 BTU/lb (heat value) using advanced integrated gasification combined cycle technology, that is combined with renewable sources, minimizes and sequesters carbon dioxide emissions, and provides hydrogen for near-site fuel cell demonstrations. Provides a direct loan of up to \$80 million to place into service an Alaska-based clean coal technology facility. Establishes various coal gasification demonstration projects.

Subtitle C – Coal and Related Programs

The conference report directs the Department of Energy to carry out a program of financial assistance to facilitate the production of coal-based power through the deployment of clean coal electric generating equipment and processes by providing up to 50 percent of total project costs. Authorizes appropriations of \$250 million for fiscal year 2007, \$350 million for fiscal year 2008, \$400 million for fiscal years 2009 through 2012, and \$300 million for fiscal year 2013 to carry out the program.

Subtitle D – Federal Coal Leases

The conference report repeals the 160-acre limitation for modifications to existing coal leases, subject to certain limitations, and allows the Secretary to extend the duration of a coal lease to beyond 40 years. Extends to no more than 20 years the aggregate number of years of any lease for which advanced royalties may be accepted in lieu of the condition of continued operation.

Title V – Indian Energy

The conference report assists Indian Tribes in the development of Indian energy resources by increasing Tribes' internal capacity to develop their own resources. It provides grants and technical assistance, and streamlines the approval process for Tribal leases, agreements, and rights-of-way so that outside parties have more incentive to partner with Tribes to develop energy resources. The report creates the Office of Indian Energy Policy and Programs within the Department of Energy (DOE) to support the development of tribal energy resources. The report also provides a complete substitute for Title 26 of the Energy Policy Act of 1992. The substitute authorizes the Secretary of the Interior to provide grants to tribes to develop and utilize their energy resources and to enhance the legal and administrative ability to tribes to manage their resources. It establishes a process by which an Indian tribe, upon demonstrating its technical and financial capacity, could negotiate and execute energy resource development leases, agreements, and right-of-way with third parties without first obtaining approval of the Secretary of the Interior. It allows the Secretary to review activities authorized under the Indian Mineral Development Act, and authorizes the Western Area Power Administration to make power allocations to meet the firming (providing power intended to be available at all times) and reserve needs of Indian-owned energy projects and acquire power generated by Indian tribes for firming and reserve needs, so long as the rates and terms are competitive.

Title VI – Nuclear Matters

Subtitle A – Price Anderson Act Amendment

The conference report extends authorization period for indemnification provisions for nuclear power plants for a period of 20 years. Increases the maximum annual assessment from \$10 million to \$15 million and increases the overall cap from \$63 million to \$95.8 million, which is adjusted for inflation in the future.

Subtitle B – General Nuclear Matters

The conference report provides for the licensing of exports of highly enriched uranium for medical isotope production in Canada, Belgium, France, Germany, and the Netherlands. Requires designation of an entity within DOE to be responsible for the final disposal of greater than Class C Radioactive Waste (low-level waste) and development of a plan for disposal of such waste. Prohibits nuclear exports to countries that support terrorism. Provides a new power plant construction investment incentive to offset the financial impact of delays beyond industry's

control for up to six new nuclear power plants. The incentive would cover 100 percent of the cost of delay for the first two new plants, up to \$500 million each, and 50 percent of the delay costs up to \$250 million each for the remaining plants.

Subtitle C – Next Generation Nuclear Plant Project

The conference report establishes a project to construct a next generation nuclear plant and authorizes \$1.25 billion for the project for the period 2006 to 2015, as well as sums necessary for each of the fiscal years 2016 through 2021.

Subtitle D – Nuclear Security

The conference report introduces additional security measures at nuclear power plants, including increasing the reliability of personal identification systems and allowing plant security forces to use more advanced weaponry.

Title VII – Vehicles and Fuels

Subtitle A – Existing Programs

The conference report strengthens existing provisions that require federal vehicle fleets use alternative fuels in the alternative-fuel-capable vehicles.

Subtitle B – Hybrid Vehicles, Advanced Vehicles, and Fuel Cell Buses

The conference report establishes programs to improve batteries, power electronics, hybrid systems integration, and other hybrid vehicle technologies. Encourages the production and sell of hybrid and advanced vehicles through grants to automobile manufacturers and pilot projects. Establishes a transit bus demonstration program to demonstrate fuel cell buses.

Subtitle C – Clean School Buses

The conference report establishes a program for awarding grants on a competitive basis for the replacement or retrofit of certain existing school buses.

Subtitle D – Miscellaneous

The conference report establishes programs to increase railroad locomotive fuel economy, promote bicycle riding, reduce heavy duty engine idling, increase efficiency, and test biodiesel engines.

Subtitle E – Automobile Efficiency

The conference report authorizes \$3.5 million per year for fiscal years 2006 through 2010 for the National Highway Traffic Safety Administration to carry out its obligations with respect to fuel economy standards.

Subtitle F – Federal and State Procurement

The conference report requires the federal government to adopt hydrogen technologies as soon as practicable.

Subtitle G – Diesel Emissions Reduction

The conference report establishes national and state grant and loan programs to achieve significant reductions in diesel emissions.

Title VIII – Hydrogen

The conference report authorizes basic research, development, and demonstration activities related to hydrogen energy, fuel cells, and related infrastructure.

Title IX – Research and Development

The conference report defines broad research and development goals in the areas of energy efficiency, distributed energy and electric energy systems, renewable energy, nuclear energy, and fossil energy.

Subtitle A – Energy Efficiency

The conference report authorizes programs to develop advanced solid state lighting options, to address energy conservation in buildings and evaluate secondary use of electric vehicle batteries.

Subtitle B – Distributed Energy and Electric Energy Systems

The conference report authorizes appropriations for distributed energy and electric energy systems activities, for micro-cogeneration energy technology activities, and for a power delivery research initiative. Establishes a high-power-density industry program; authorizes grants to develop small-scale combined heat and power systems for residential applications, assistance, and demonstration of projects using distributed energy technology and highly energy-intensive commercial applications; and establishes programs to ensure reliability and environmental integrity of electrical transmission systems.

Subtitle C – Renewable Energy

The conference report establishes research and development programs for: bioenergy; low-cost renewable hydrogen and infrastructure for vehicle propulsion; concentrating solar power; and hybrid solar lighting.

Subtitle D – Agriculture Biomass Research and Development Programs

The conference report encourages the development of biobased fuels through production incentives and grants.

Subtitle E – Nuclear Energy

The conference report authorizes the Nuclear Energy Research Initiative, Nuclear Energy Plant Optimization, Nuclear Power 2010, Generation IV Nuclear Energy Systems, Reactor Production of Hydrogen, and Nuclear Infrastructure Support Programs. Also authorizes the Advanced Fuel Cycle Initiative to evaluate proliferation-resistant fuel recycling and transmutation technologies.

Subtitle F – Fossil Energy

The conference report authorizes research programs for oil and gas exploration and production technologies, including those with applications for heavy oil and shale, and reauthorizes methane-hydrate research. Authorizes research programs for coal-mining technologies, coal and power systems, and carbon dioxide-capture technologies.

Subtitle G – Science

The conference report authorizes funding for several science programs: including burning plasma fusion research; catalysis research; hydrogen research; genomes to life; fission and fusion energy materials research program; energy-water supply technologies program; and spallation neutron source research.

Subtitle H – International Cooperation

The conference report directs the Department of Energy to carry out a program to promote cooperation on energy issues with countries in the Western Hemisphere.

Title X – Department of Energy Management

The conference report establishes a technology transfer coordinator within the Department of Energy. Establishes a pilot program to encourage technology clusters in support of departmental mission areas. Promotes small business participation in procurement and research opportunities. Authorizes cash prizes in recognition of break-through achievements in research, development, demonstration, and commercial application that have the potential for application to the performance of the mission of the Department.

Title XI – Personnel and Training

The conference report requires DOE to monitor workforce trends in the energy industry, and authorizes the Secretary to establish fellowships for postdoctoral and senior researchers in

energy research and development fields, and in conjunction with the Secretary of Labor, establishes traineeship grants to address shortages of trained personnel. Requires the Secretary of Labor to develop model personnel training guidelines to support electric system reliability and safety.

Requires National Laboratories to increase participation of historically Black colleges and universities, Hispanic-serving institutions, and tribal colleges in activities that improve these institutions' ability to train students in scientific and technical careers. Establishes a national training center to train certified operators for electric power generation plants.

Title XII – Electricity

Subtitle A – Reliability Standards

The conference report changes the current voluntary rules for operation of the transmission grid to a mandatory rules system under an Electricity Reliability Organization (ERO). Grants the ERO the power to establish mandatory reliability standards and the authority to penalize violators.

Subtitle B – Transmission Infrastructure Modernization

The conference report authorizes the Secretary to designate national interest electric transmission corridors, and provides eminent domain authority to establish such corridors and just compensation for any rights-of-way acquired by such authority. Authorizes the Western Area Power Administration and the Southwestern Power Administration to enter into public-private financial arrangements to build or upgrade transmission facilities. Directs FERC to encourage the deployment of advanced transmission technologies, and establishes an Advanced Power System Technology Incentive Program.

Subtitle C – Transmission Operation Improvements

The conference report authorizes FERC to require unregulated transmitting utilities to provide open access to their transmission systems at rates that are comparable to those they charge themselves and that are not unduly discriminatory or preferential. Small, unregulated transmitting utilities and unregulated transmitting utilities that do not own or operate significant transmission facilities are exempt. Allows appropriate federal regulatory authorities to transfer control of all or part of a transmission system of a federal utility to a transmission organization. Entitles load-serving entities to exercise firm transmission rights, or equivalent tradable or financial transmission rights, to the extent needed to meet their service obligation. Protects firm transmission rights of entities in the Pacific Northwest by allowing only voluntary conversion of firm transmission rights to financial transmission rights.

Subtitle D – Transmission Rate Reform

The conference report directs FERC to issues rules on transmission pricing policies that provide a return on equity that attracts capital for investment in grid improvements and advanced transmission technologies.

Subtitle E – Amendment to PURPA

The conference report amends the Public Utility Regulatory Policy Act to require States to consider adoption of: net metering standards (a requirement that utilities make net metering, regarding on-site energy production, measurement, and billing, available to any electric consumer); fuel diversity (a requirement that utilities reduce dependency on a single fuel source and increase fuel diversity, including the use of renewables); and fossil fuel generation efficiency (a requirement that utilities implement 10 year plans to increase fossil fuel efficiency).

Amends PURPA to do the following: require States to consider the implementation of smart metering standards that require electric utilities to offer time based rate schedules (such as time-of-use pricing, critical-peak pricing, and real-time pricing) that enable customers to manage energy use and cost through advanced metering and communications technology; ensure that qualifying facilities meet specific criteria to be eligible for mandatory purchase and sale benefits and that such benefits terminate when a competitive wholesale market exists; and require States to consider best practices for promoting interconnection for distributed generation.

Subtitle F – PUHCA Repeal

The conference report repeals the Public Utility Holding Company Act of 1935 (PUHCA). Gives FERC authority to request that each holding company, associate company, or affiliate company make available accounts and records that FERC determines are relevant to costs incurred by a public utility or natural gas company and that are necessary and appropriate to protect utility customers with respect to jurisdictional rates.

Requires holding companies, associate companies, or affiliate companies to make available to state commissions books, accounts, and records that are determined to be relevant to costs incurred and that are necessary and appropriate to protect utility customers with respect to jurisdictional rates. Requires FERC to promulgate a final rule exempting from Federal books and records requirements any person that is a holding company solely with respect to a qualifying facility; wholesale generators or foreign utility companies are exempted.

Preserves the authority of FERC or a state commission to determine if a jurisdictional public utility company can recover, in rates, costs incurred through transactions with affiliates. Provides that PUHCA provisions do not apply to the U.S. government, any state or political subdivision, any foreign government authority not operating in the U.S. or any agency, authority, or instrumentality of any of the above. Preserves the authorities of FERC or state commissions under other applicable law, authorizes FERC to use its enforcement authorities under the FPA to enforce this subtitle, permits FERC to continue activities authorized as of date of enactment, and preserves its authority under FPA and the Natural Gas Act. Authorizes FERC to promulgate

regulations to implement this subtitle and submit recommendations to Congress for technical and conforming amendments within four months of enactment.

Subtitle G – Market Transparency, Enforcement, and Consumer Protection

The conference report requires FERC to establish an electronic system to provide information on the availability and price of wholesale electric energy and transmission services, and prohibits filing of false information. Bans manipulative or deceptive device or contrivance in connection with the purchase or sale of electricity of FERC jurisdictional transmission services in violation of FERC rules. Expands the scope of who can file complaints and against whom complaints can be filed under the Federal Power Act, extends FERC's investigative authority to transmitting utilities, and increases penalties under the FPA and the Natural Gas Act. Amends FERC's authority to allow refunds under the FPA as of the date of the filing of a complaint. Requires the Federal Trade Commission to issue rules to protect electric consumers from disclosure of consumer information obtained through the sale or delivery of electricity. Establishes within DOE an Office of Consumer Advocacy to represent energy consumers on matters regarding rates and services of public utilities, and to represent natural gas companies at FERC hearings and in civil proceedings.

Expands FERC's merger review authority and increases transaction value thresholds from \$50,000 to \$10 million. Requires FERC to make a finding that a transaction is consistent with the public interest and will not result in cross-subsidizations of associate companies to the detriment of the utility.

Title XIII – Energy Tax Incentives Act of 2005

The conference report includes a revenue title based on the tax provisions enacted in Senate and House versions of the bill. This title generally provides energy-related tax incentives in five principal areas: oil and gas production and refining; electricity production; renewable and clean energy; clean coal; and energy efficiency and conservation. The revenue title also includes provisions that raise approximately \$3 billion in revenues over 10 years. The main provisions in these areas are briefly described below. A complete description of the tax provisions is available at: <http://finance.senate.gov/sitepages/leg/072705leg.pdf>.

Oil and Gas Production and Refining

- **Depreciation of natural-gas distribution lines:** The conference shortens the depreciation period for natural-gas distribution lines from 20 years under current law to 15 years. Cost: \$1.019 billion.
- **Amortization of geological and geophysical expenditures:** The conference report provides that geological and geophysical expenditures incurred in connection with oil and gas exploration in the United States may be amortized over two years. Cost: \$974 million.

- **Expensing for refinery investments:** The conference report allows taxpayers to expense (i.e., depreciate immediately) 50 percent of the cost of refinery investments that increase the capacity of an existing refinery, subject to certain limitations. Cost: \$406 million.
- **Small-refiner exception to oil-depletion deduction:** The conference report expands the qualification criteria for the small refinery exception to the oil-depletion deduction under current law. Cost: \$158 million.
- **Depreciation of natural-gas gathering lines:** The conference report clarifies that the depreciation recovery period for natural-gas gathering lines is seven years. Cost: \$16 million.

Electricity Production

- **Depreciation of transmission property:** The conference shortens the depreciation period for property used for the transmission and distribution of electricity from 20 years under current law to 15 years. Cost: \$1.239 billion.
- **Nuclear decommissioning:** The conference report modifies the rules for qualified nuclear decommissioning funds, which are funds created by a taxpayer, restricted to certain kinds of investments, and used exclusively for payment of decommissioning costs. Cost: \$1.293 billion.
- **Treatment of electric cooperative income:** The conference report makes permanent the provisions enacted in the American Job Creation Act (AJCA) of 2004,¹ which modified the so-called 85/15 test for electric cooperatives by excluding certain income related to electricity restructuring from the test. Under AJCA, those changes expire on 12/31/06. Cost: \$277 million.
- **Production tax credit for nuclear power facilities:** The conference report establishes a production tax credit for new nuclear-power facilities. Cost: \$278 million.
- **Net-operating-loss carryback for electric transmission equipment:** The conference report permits taxpayers to carry back a net operating loss to each of the five years preceding the taxable year of such loss up to 20 percent of the cost of electric transmission capital expenditures and pollution control capital expenditures. The provision applies to losses incurred in 2003, 2004, and 2005. Cost: \$52 million.

¹H.R. 4520, 108th Cong., 2d Session; Public Law 108-357 (October 22, 2004).

Renewable and Clean Energy

- **Renewable electricity production tax credit:** The conference report extends and modifies the tax credit for the production of electricity from renewable resources – the so-called Section 45 tax credit. Cost: \$2.747 billion.
- **Clean renewable energy bonds:** The conference report creates new category of tax-credit bonds, called Clean Renewable Energy Bonds (“CREBs”), which may be used to finance capital expenditures incurred with respect to facilities qualifying for the electricity-production tax credit under Section 45 of the tax code. Cost: \$411 million.

Clean Coal

- **Tax credit for investment in clean-coal facilities:** The conference report establishes three investment tax credits for clean-coal facilities – a 15-percent and 20-percent investment tax credit for clean-coal facilities producing electricity; and a 20-percent tax credit for industrial-gasification projects. Cost: \$1.612 billion.
- **Amortization of pollution control facilities:** The conference report provides a depreciation recovery period of seven years for the cost of certain certified air-pollution-control facilities used in connection with an electric-generation plant that is primarily coal fired and that was not in operation before January 1, 1976. Cost: \$1.147 billion.
- **Tax credit for producing fuel from a non-conventional source:** The conference report modifies the tax credit for producing fuel from a non-conventional source, making it part of the general business credit, so that unused credits may be carried back one year and forward 20 years. The conference report also adds a production tax credit for qualified facilities that produce coke or coke gas. Cost: \$189 million.

Energy Efficiency and Conservation

- **Tax credits for alternative-technology vehicles:** The conference report provides a tax credit for fuel-cell vehicles, which is generally based on the weight class of the vehicle and its rated fuel economy. For alternative-fuel vehicles, the conference report permits the tax credit under current law to offset the excess of the regular tax over the alternative minimum tax. The conference report also provides a tax credit for hybrid vehicles and advanced lean-burn-technology vehicles. The amount of credit is generally based on fuel economy and the estimated lifetime fuel savings of the qualifying vehicle. Cost: \$874 million.
- **Tax credit for small producers of biodiesel and ethanol:** The conference report adds to the existing tax credit for biodiesel fuels a new tax credit for small producers of agri-biodiesel. Cost: \$181 million.

- **Tax credit for installing of alternative fuel refueling property:** The conference report permits taxpayers to claim a 30-percent tax credit for the cost of installing qualifying property to refuel clean-fuel vehicles. Cost: \$71 million.
- **Tax credit for residential energy-efficient property:** The conference report provides a 30-percent tax credit for the purchase of qualified photovoltaic property and solar water-heating property used exclusively for purposes other than heating swimming pools and hot tubs. The conference report also provides a 30-percent tax credit for the purchase of qualified fuel-cell power plants. Cost: \$31 million.
- **Tax credit for business installation of qualifying energy-efficiency property:** The conference report provides a 30-percent tax credit for businesses that purchase qualified fuel-cell power plants and a 10-percent tax credit for purchases of qualifying stationary microturbine power plants. Additionally, the conference report provides a 30-percent tax credit for businesses that purchase qualifying solar-energy property. Cost: \$222 million.
- **Tax credit for energy-efficient existing homes:** The conference report provides 10-percent investment tax credit for expenditures with respect to certain energy-efficient improvements, including purchases of advanced main-air circulating fans, natural gas, propane, or oil furnaces or hot water boilers, and other qualified energy-efficient property. Cost: \$556 million.
- **Business tax credit of energy-efficient new homes:** The conference report provides a tax credit to eligible contractors for the construction of a qualified new energy-efficient homes. Cost: \$28 million.
- **Deduction for energy-efficient commercial buildings:** The conference report permits a deduction for energy-efficient property installed during construction of commercial buildings that reduces annual energy and power consumption. Cost: \$243 million.
- **Tax credit for energy-efficient appliances:** The conference report establishes a tax credit for the manufacture of energy-efficient dishwashers, clothes washers, and refrigerators. Cost: \$180 million.
- **Research and development tax credit for energy research:** The conference report modifies the current 20-percent research and development tax credit, allowing energy-related research by qualified research consortia to be eligible for the credit. Cost: \$92 million.

Revenue Raisers

- **Oil Spill Liability Trust Fund:** The conference report reinstates the Oil Spill Liability Trust Fund tax. Raises: \$2.508 billion.

- **Leaking Underground Storage Tank Trust (LUST) Fund.** The conference report extends the LUST Trust Fund tax at the current rate through September 30, 2011. Under the conference report, dyed fuel is also subject to the LUST tax. Raises: \$349 million.

Cost of the Revenue Title

According to the Joint Committee on Taxation, the tax provisions in the conference report have a cost of approximately \$6.9 billion over five years and \$11.5 billion over 10 years, net of the revenues raised by other provisions in the title. The revenue estimate prepared by the Joint Committee on Taxation for the revenue title of the conference report is available at: <http://www.house.gov/jct/x-59-05.pdf>.

Title XIV – Miscellaneous

The conference report provides guidance on risk assessments of energy technology, state production incentives, oil used in transformers, and petrochemical and oil refinery facility health assessments. Commissions a study of the application of radiation to petroleum at standard temperature to refine petroleum products.

Title XV – Ethanol and Motor Fuels

Subtitle A – General Provisions

The conference report would require that the EPA Administrator to promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (Hawaii and Alaska exempted) on an annual basis contain 7.5 billion gallons of renewable fuel by 2012, beginning with 4 billion gallons in 2006, and rising incrementally until 2012. Eliminates the oxygen content requirement for reformulated gasoline. Provides loan guarantees for to carry out commercial demonstration projects for cellulosic biomass and sucrose derived ethanol.

Subtitle B – Underground Storage Tank Compliance

The conference report requires that at least 80 percent of all dollars appropriated from the Leaking Underground Storage Tank Trust Fund be sent to the states for operating leaking underground tank programs. It requires onsite inspections of underground storage tanks every three years after a brief period for the state to update its backlog. It establishes operator-training programs where they do not already exist.

Subtitle C – Boutique Fuels

The conference report seek to limit the proliferation of boutique fuels by allowing the EPA to temporarily waive motor vehicle fuel requirements in the event of extreme or unusual circumstances, such as an Act of God or equipment failure, which prevents the distribution of a mandated fuel or fuel additive to consumers. Prohibits the EPA from increasing the total number

of fuels approved and allows it to remove a fuel from the list of approved fuels if it ceases to be included in a state implementation plan or is identical to a federal fuel formulation implemented by EPA.

Title XVI – Climate Change

Subtitle A – National Climate Change Technology Deployment

The conference report promotes the adoption of technologies that reduce greenhouse gas intensity (emissions per dollar of GDP) by providing loan guarantees for up to 25 percent of the total cost of eligible projects that employ advanced climate technologies or systems.

Subtitle B – Climate Change Technology Deployment in Developing Countries

The conference report promotes the adoption of technologies that reduce greenhouse gas intensity in developing countries by allowing U.S. companies that invest in such technologies overseas to fully deduct the cost of investment.

Title XVII – Incentives for Innovative Technologies

The conference report provides terms and conditions for loan guarantees made by the Secretary. Cost of loan guarantees must be appropriated or paid by borrower. The guarantee cannot exceed 80 percent of the project cost and a full payment must be made within the lesser of 30 years or 90 percent of the projected useful life of the asset. Provides other criteria regarding eligibility for loan guarantees, emission levels, and so on.

Title XVIII – Studies

The conference report requires studies on a wide range of topics (see Committee Report).